

**1.UNITED STATE DISTRICT COURT
DISTRICT OF NEW JERSEY**

MELANIE SHEPARD *et al.*,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

GERBER PRODUCTS COMPANY

Defendant.

MUSLIN PIERRE-LOUIS,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

GERBER PRODUCTS COMPANY

Defendant.

JESSICA MOORE,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

GERBER PRODUCTS COMPANY

Defendant.

Case No.: 2:21-cv-01977-CCC-MF

**PLAINTIFFS' STIPULATION [AND
PROPOSED ORDER] TO
CONSOLIDATE ACTIONS UNDER FED.
R. CIV. P. 42(a)**

Case No.: 2:21-cv-04791-CCC-MF

Case No.: 2:21-cv-02516-CCC-MF

JULIANA FONDACARO and
MAYRA VERDUZCO, on behalf of
themselves and a class of others
similarly situated,

Plaintiffs,

v.

GERBER PRODUCTS COMPANY,

Defendant.

LACY MARTIN and HOLLY
SILVERTHORN, on behalf of
themselves and a class of others
similarly situated,

Plaintiffs,

v.

GERBER PRODUCTS COMPANY,

Defendant.

LaKENDRA CAMILLE MCNEALY,
individually and on behalf of a class of
others similarly situated,

Plaintiff,

v.

GERBER PRODUCTS COMPANY,

Defendant.

Case No.: 2:21-cv- 05032-CCC-MF

Case No.: 2:21-cv- 05846-CCC-MF

Case No.: 2:21-cv- 09064-CCC-MF

NAJAH A. HENRY, et al, on behalf of themselves and a class of others similarly situated,

Case No.: 2:21-cv- 05864-CCC-MF

Plaintiffs,

v.

GERBER PRODUCTS COMPANY,
etc.

Defendant.

MICHELE WALLACE and
VANESSA GALLUCCI, *individually and on behalf of all others similarly situated,*

Case No.: 2:21-cv-09980-CCC-MF

Plaintiff,

v.

GERBER PRODUCTS COMPANY

Defendant.

WHEREAS, the above-captioned related proposed consumer class actions are pending before the United States District Court for the District of New Jersey, entitled: *Shepard v. Gerber Products Company*, Case No. 2:21-cv-01977-CCC-MF (“*Shepard*”), filed February 5, 2021; *McNealy v. Gerber Products Company*, Case No. 2:21- cv-09064-CCC-MF (“*McNealy*”), filed February 8, 2021; *Moore v. Gerber Products Company*, Case No. 2:21-cv-02516-CCC-MF (“*Moore*”), filed February 12, 2021; *Pierre-Louis v. Gerber Products Company*, Case No. 2:21-cv-04791-CCC-MF (“*Pierre-Louis*”), filed March 11, 2021; *Fondacaro v. Gerber Products*

Company, Case No. 2:21-cv-05032-CCC-MF (“*Fondacaro*”), filed March 12, 2021; *Martin v. Gerber Products Company*, Case No. 2:21-cv-05846-CCC-MF (“*Martin*”), filed March 19, 2021; *Henry v. Gerber Products Company*, Case No. 2:21-cv-05864-CCC-MF (“*Henry*”), filed March 19, 2021; and *Wallace v. Gerber Products Company*, Case No. 2:21-cv-09980-CCC-MF (“*Wallace*”), filed April 21, 2021 (together the “Related Actions”) and collectively all plaintiffs are referred to herein as “Plaintiffs.”

WHEREAS, Plaintiffs assert the Related Actions arise out of the same set of operative facts and assert similar legal claims against Defendant Gerber Products Company (“Gerber” or “Defendant”), alleging that Gerber has engaged in deceptive trade practices with respect to the marketing and sale of its baby food products (the “Baby Foods”) by failing to disclose that they contain levels of toxic heavy metals, including arsenic, lead, cadmium, and mercury (the “Heavy Metals”);

WHEREAS, Plaintiffs assert that each Related Action seeks, *inter alia*, injunctive relief barring Gerber from continuing the deceptive practices it is accused of as well as monetary damages compensating Plaintiffs and other consumers for the purchase of the Baby Foods;

WHEREAS, Plaintiffs in each Related Action agree that consolidation of the Related Actions under Fed. R. Civ. P. 42(a) is appropriate because Plaintiffs contend they involve common questions of law and fact, arise from the same events, name the same Defendant, and will involve substantially the same discovery;

WHEREAS, consolidation under Rule 42(a) will eliminate duplicative discovery and the possibility of inconsistent rulings on class certification, *Daubert* motions, and other pretrial matters, and conserve judicial and party resources;

WHEREAS, Gerber has advised the undersigned counsel for the *Related Actions* that although Gerber vigorously disputes the merits of the allegations proffered against it in these lawsuits, Gerber stipulates to consolidation of the lawsuits Plaintiffs describe as “Related Actions” under Fed. R. Civ. P. 42(a), while expressly reserving all of its rights, remedies, defenses, objections, and legal arguments;

NOW THEREFORE, the Plaintiffs through their respective counsel and subject to the Court’s approval hereby stipulate that:

1. The *Shepard, Pierre-Louis, Moore, Fondacaro, Martin, McNealy, Henry* and *Wallace* actions currently pending in the District of New Jersey and any other class action arising out of the same or similar operative facts now pending or hereafter filed in, removed to, or transferred to this District shall be consolidated pursuant to Fed. R. Civ. P. 42(a) (hereafter the “Consolidated Action);
2. All papers filed in the Consolidated Action shall be filed under Case No. 2:21-cv-01977-CCC-MF and shall bear the following caption;

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

**IN RE: GERBER PRODUCTS COMPANY
BABY FOOD LITIGATION**

This Document Relates To:

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Master File No. 2:21-cv-01977-CCC-MF

3. The case file for the Consolidated Action will be maintained under Master File No. 2:21-cv-01977-CCC-MF. When a pleading is intended to apply to all actions to which this Order applies, the words “All Actions” shall appear immediately after the words “This Document Relates To:” in the caption described above. When a pleading is not intended to apply to all actions, the docket number for each individual action to which the paper is intended to apply and the last name of the first-named plaintiff in said action shall appear immediately after the words “This Document Relates To:” in the caption identified above, for example, “2:21-cv-02516-CCC-MF (*Moore*).”

4. This Stipulation and Order is without prejudice to the Cross Motion of Plaintiff Moore, which is currently being briefed by the parties, to transfer the Related Actions to the U.S. District Court for the Eastern District of Virginia.

5. No Plaintiffs shall move for appointment of interim lead counsel until thirty (30) days after this Court rules on the Cross Motion to transfer these actions to the Eastern District of Virginia, and Plaintiffs shall not file a Consolidated Complaint until thirty (30) days after appointment of interim lead counsel. In the interim, Gerber need not file a response to the complaint in each Related Action and instead shall answer, move or otherwise respond to any Consolidated Complaint no later than sixty (60) days following service of a Consolidated Complaint.

IT IS SO STIPULATED.

/s/ Gary S. Graifman

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**pro hac vice to be filed*

ORDER PURSUANT TO STIPULATION,
IT IS SO ORDERED.



Hon. Mark Falk, U.S.M.J.
United States Magistrate

Dated: May 21_, 2021